

MONTANA LEGISLATIVE HISTORY

Chapter 37 19 99

Bill H 331 S _____ Original bill & history / c

H. Committee on Natural Res.

Hearing Date(s) 1-27 ✓ c

2-3 ✓ c

_____ c

_____ c

Date Out _____ c

S. Committee on Natural Res.

Hearing Date(s) 3-8 ✓ c

3-10 ✓ c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HOUSE BILLS AND RESOLUTIONS

473

HB 331 Introduced by Ahner

LC0607 Drafter: Mitchell

Authorize Local Boards of Health to Adopt and Enforce Institutional Controls at Federal Superfund Sites and at Sites Regulated under the Montana Comprehensive Environmental Cleanup and Responsibility Act;...

1/19	Introduced and 1st Reading		
1/19	Referred to Natural Resources		
1/27	Hearing		
2/04	Committee Executive Action--Bill Passed	19	1
2/04	Committee Report--Bill Passed		
2/06	2nd Reading Passed	93	6
2/08	3rd Reading Passed	93	6
	Transmitted to Senate		
2/09	Referred to Natural Resources		
3/08	Hearing		
3/11	Committee Executive Action--Bill Concurred	8	1
3/11	Committee Report--Bill Concurred		
3/13	2nd Reading Concurred	43	0
3/15	3rd Reading Concurred	49	0
	Returned to House		
3/16	Sent to Enrolling		
3/16	Returned from Enrolling		
3/17	Signed by Speaker		
3/17	Signed by President		
3/18	Transmitted to Governor		
3/23	Signed by Governor		
3/24	Chapter Number Assigned		
	Chapter Number 137		
	Effective Date: 3/23/1999 - All Sections		

HB 332 Introduced by Walters

LC1005 Drafter: Everts

Allow a Nonresident and Resident Mountain Lion Hunter to Take up to Two Mountain Lions Each Hunting Season;...

1/19	Introduced and 1st Reading
1/19	Referred to Fish, Wildlife, and Parks
1/19	Fiscal Note Requested
1/23	Fiscal Note Received
1/23	Fiscal Note Signed
1/25	Fiscal Note Printed
1/26	Hearing
2/03	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

HB 333 Introduced by Cobb

LC1068 Drafter: Fox

Establish When Turkey or Chicken Food Products Must Be Considered Adulterated;...

1/19	Introduced and 1st Reading
1/19	Referred to Agriculture
1/28	Hearing
1/29	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

H BILL NO. 331INTRODUCED BY C. Oliver
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT AND ENFORCE INSTITUTIONAL CONTROLS AT FEDERAL SUPERFUND SITES AND AT SITES REGULATED UNDER THE MONTANA COMPREHENSIVE ENVIRONMENTAL CLEANUP AND RESPONSIBILITY ACT; AMENDING SECTIONS 50-2-101 AND 50-2-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-2-101, MCA, is amended to read:

"50-2-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Communicable disease" means a disease designated as communicable by the department.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Institutional control" means a legal or regulatory mechanism designed to protect public health and safety or the environment that:

(a) limits access to or limits or conditions the use of environmentally contaminated property or media;

(b) provides for the protection or preservation of environmental cleanup measures; or

(c) informs the public that property is or may be environmentally impaired or that there are limitations on the access to or use of environmentally contaminated properties or media.

~~(3)~~(4) "Local board" means a county, city, city-county, or district board of health.

~~(4)~~(5) "Local health officer" means a county, city, city-county, or district health officer appointed by the local board.

~~(5)~~(6) "Physician" means a physician legally authorized to practice medicine in this state."

Section 2. Section 50-2-116, MCA, is amended to read:

1 **"50-2-116. Powers and duties of local boards. (1) Local boards shall:**

2 (a) appoint a local health officer who is a physician or a person with a master's degree in public
3 health or the equivalent and with appropriate experience, as determined by the department, and shall fix
4 the health officer's salary;

5 (b) elect a presiding officer and other necessary officers;

6 (c) employ necessary qualified staff;

7 (d) adopt bylaws to govern meetings;

8 (e) hold regular meetings quarterly and hold special meetings as necessary;

9 (f) supervise destruction and removal of all sources of filth that cause disease;

10 (g) guard against the introduction of communicable disease;

11 (h) supervise inspections of public establishments for sanitary conditions;

12 (i) subject to the provisions of 50-2-130, adopt necessary regulations that are not less stringent
13 than state standards for the control and disposal of sewage from private and public buildings that is not
14 regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for
15 granting variances from the minimum requirements that are identical to standards promulgated by the
16 board of environmental review and must provide for appeal of variance decisions to the department as
17 required by 75-5-305.

18 (2) Local boards may:

19 (a) quarantine persons who have communicable diseases;

20 (b) require isolation of persons or things that are infected with communicable diseases;

21 (c) furnish treatment for persons who have communicable diseases;

22 (d) prohibit the use of places that are infected with communicable diseases;

23 (e) require and provide means for disinfecting places that are infected with communicable
24 diseases;

25 (f) accept and spend funds received from a federal agency, the state, a school district, or other
26 persons;

27 (g) contract with another local board for all or a part of local health services;

28 (h) reimburse local health officers for necessary expenses incurred in official duties;

29 (i) abate nuisances affecting public health and safety or bring action necessary to restrain the
30 violation of public health laws or rules;

(j) adopt necessary fees to administer regulations for the control and disposal of sewage from private and public buildings. The fees must be deposited with the county treasurer.

(k) adopt rules that do not conflict with rules adopted by the department:

(i) for the control of communicable diseases;

(ii) for the removal of filth that might cause disease or adversely affect public health;

(iii) subject to the provisions of 50-2-130, on sanitation in public buildings that affects public health;

(iv) for heating, ventilation, water supply, and waste disposal in public accommodations that might endanger human lives;

(v) subject to the provisions of 50-2-130, for the maintenance of sewage treatment systems that do not discharge an effluent directly into state waters and that are not required to have an operating permit as required by rules adopted under 75-5-401; and

(vi) for the regulation, as necessary, of the practice of tattooing, which may include registering tattoo artists, inspecting tattoo establishments, adopting fees, and also adopting sanitation standards that are not less stringent than standards adopted by the department pursuant to 50-1-202. For the purposes of this subsection, "tattoo" means making permanent marks on the skin by puncturing the skin and inserting indelible colors.

(l) adopt regulations for the establishment of institutional controls that have been selected or approved by the:

(i) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

(ii) department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

- END -

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Natural Resources -

04:03 PM

-
- HB 270** SPONSOR: Trexler, Cliff SHORT TITLE: Clarify certain definitions relating to divisions of land
REFERRED ON: 01/13/1999 HEARD ON: 01/22/1999
TABLED ON: 01/29/1999
FINAL DISPOSITION 03/01/1999 (H) Missed Deadline for General Bill Transmittal
-
- HB 298** SPONSOR: Fuchs, Daniel SHORT TITLE: Prohibiting requirement of cisterns under certain conditions
REFERRED ON: 01/15/1999 HEARD ON: 01/25/1999
EXECUTIVE ACTION: 02/18/1999 Bill Passed -- VOTE: 13 - 7
TABLED ON: 02/03/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 300** SPONSOR: Ohs, Karl SHORT TITLE: Revise subdivision and platting act
REFERRED ON: 01/15/1999 HEARD ON: 01/25/1999
EXECUTIVE ACTION: 02/04/1999 Bill Passed -- VOTE: 16 - 4
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- HB 331** SPONSOR: Ahner, Chris SHORT TITLE: Authorize local health boards to adopt institutional controls at specified sites
REFERRED ON: 01/19/1999 HEARD ON: 01/27/1999
EXECUTIVE ACTION: 02/04/1999 Bill Passed -- VOTE: 19 - 1
FINAL DISPOSITION 03/24/1999 Chapter Number Assigned
-
- HB 340** SPONSOR: Anderson, Shiell SHORT TITLE: Require preservation of monuments for land survey purposes
REFERRED ON: 01/20/1999 HEARD ON: 01/29/1999
EXECUTIVE ACTION: 02/09/1999 Bill Passed -- VOTE: 18 - 2
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 346** SPONSOR: Raney, Bob SHORT TITLE: Require annual monitoring reports on compliance with EIS mitigation measures
REFERRED ON: 01/21/1999 HEARD ON: 02/01/1999
EXECUTIVE ACTION: 02/02/1999 Bill Passed as Amended -- VOTE: 18 - 2
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 392** SPONSOR: Tash, Bill SHORT TITLE: Expand DEQ consultation with statewide TMDL advisory group
REFERRED ON: 01/26/1999 HEARD ON: 02/01/1999
EXECUTIVE ACTION: 02/02/1999 Bill Passed -- VOTE: 19 - 1
FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on January 27, 1999 at
3:00 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: None.

Members Absent: Rep. Bill Eggers (D)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bob Story (R)

Staff Present: Debbie Thompson, Committee Secretary
Kathleen Williams, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJ 3
HB 102
HB 331

an access to the BLM land, an easement could be retained to make sure the sportsmen are not shut out.

Rep. Mood asked about the number of parcels. Clinch replied the agencies had been directed by the Legislative committee to begin a process of trying to bring these records together. Clyde Runy, Director of Special Uses at DNRC, charged with compiling this information, spoke to the committee. He said the state does not have a good handle on the inventory of those properties. These properties do not have recreational use. However, these property inventories are not complete and will not be complete without some direction.

Closing by Sponsor: Rep. Fisher closed. He pointed out the fiscal note was incorrect. He talked about the federal funding for the highway projects. Over a period of time the money they have to pay back to the federal government diminishes. He pointed out that the university property belongs to the people of Montana. **{Tape : 1; Side : B; Approx. Time Counter : 24 - 25.7}**

HEARING ON HOUSE BILL 331

Sponsor: Rep. Chris Ahner, HD 51, presented the bill. She said the bill relates to the clean up of properties under the federal and state Superfund laws. She described "institutional controls" which would provide solutions to protect public health or safety such as the installation of a fence or a sign. This bill will facilitate the last phase of the East Helena cleanup and should provide the same useful tool for other cleanup sites. **EXHIBIT(6)**
{Tape : 1; Side : B; Approx. Time Counter : 29.6}

Proponents: Jay Spickelmier, manager at Hydrometrics and Superfund Manager representing Asarco on the East Helena federal superfund site, spoke in favor of the bill. **EXHIBIT(7)** He described the \$15 million dollar cleanup at the site which included the removal of top soil. He pointed out the importance of continued activities to reduce exposure, such as dust control through vegetation. Due to soil disturbance or change of use, a mechanism needs to be available. An institutional control is a measure, short of actual expensive cleanup, that guards the public health or environment from the residual effects of contamination. Examples of these are fencing, signs, well or soil use advisories, well drilling restrictions, land use guidelines, or dust control measures **{Tape : 1; Side : B; Approx. Time Counter : 34.2-39.1}**

Joan Miles, Director of Lewis and Clark County Board of Health, spoke about the support for institutional controls. She

explained another name for this was "remedy protection". EPA wants long term oversight so the sites are not disturbed. Clear authority is needed for the local governance to be in line with the EPA statute. This bill will provide for local oversight, has public review and input and is discretionary.

Frank Crowley, representing Asarco, spoke in favor of the bill. He pointed out the bill would also address other sites around the state. Many sites are a simple cleanup. However, urban areas have a greater need. He described the growing usefulness for certain types of controls. Institutional controls were cost effective when compared to emergency controls. **{Tape : 1; Side : B; Approx. Time Counter : 46}**

Terry Casey, City Council of East Helena and a representative to the Lewis and Clark County Board of Health, spoke in favor of the bill. He pointed out the EPA had asked them to do institutional controls. **{Tape : 1; Side : B; Approx. Time Counter : 51.6}**

Denise Mills, Remediation Division Director at Department of Natural Resources, spoke in favor of the bill. She pointed out that institutional controls are clearly defined in the provisions of the Superfund. These controls allow for continued precautions for the environment and public safety.

Mary Ellen, representing Western Environmental Trade Association, supported HB 331 because it confirmed the availability of another option for addressing the cleanup of the environment and maintaining it properly. Institutional controls can increase the flexibility for the agencies and those doing the cleanup for solutions that are cost effective and protective. **{Tape : 1; Side : B; Approx. Time Counter : 54.1}**

Opponents: None

Questions from Committee Members and Responses: Rep. McGee asked Ms. Miles about the remedy protection measures. He asked where this term came from. Miles replied the term "institutional control" was in use for a while and was now in the statute. EPA is starting to use "remedy protection measures" in place of institutional controls. Rep. McGee asked if this term could be amended into the bill.

Rep. Hurdle asked Ms. Mills about information regarding the cleanup stage such as the East Helena smelter site. Mills replied the cleanup and activities at the smelter and surrounding property are about 90 percent clean. Now a record of decision needs to be in place and to get to that point the EPA has to come up with a plan for the cleanup. At this point the institutional

control measure or remedy protection measure is a mechanism to see that the cleanup is completed. The soil cleanup is nearly complete. The institutional controls are seen as an essential piece to make that safe and to restrict public access.

Closing by Sponsor: Rep. Ahner closed. She noted the cleanup was 90% complete and there had been soil replacements in East Helena for 578 sites. She described the close cooperation with the citizens, the EPA and the local board of health who have worked hard to make this work and addressed any problems. Asarco is held in very high esteem and has worked well with this project.

{Tape : 2; Side : A}

EXECUTIVE ACTION ON HOUSE BILL 124

Rep. Ohs **MOVED DO PASS.**

Rep. Tuss presented an amendment. **EXHIBIT(8)** She explained the idea in the bill was good and the goals for the special revenue account were noble up to a point. She was concerned about the adoption and implementation of rural subdivision building codes. She pointed out the amount of costs of supplementals to cover fire fighting. One of the goals of the special revenue account was to increase the amount collected from the careless fire setters, currently at 47% with a goal of 100%. It was her thought if the amount was reduced that the department got they could come back when their collections recovery rate was at a better percentage and ask for the money that they needed.

Rep. Tuss **MOVED** the amendment. She proposed to give the department \$60 thousand dollars where they could do a better job at getting the help they need for collection assistance and help for risk assessment and then they would have more money coming in from collection efforts. She said she was reluctant to give them \$100 thousand when the supplementals were often in the millions.

The question was called. The motion **FAILED** on a 10-10 roll call vote.

Rep. Younkin pointed out on line 23 the first \$100 thousand collected annually. It should say collected annually by the state. The preceding paragraph talks about liability. For clarity, on line 23 add "by the state". The question was called. The motion **PASSED UNANIMOUSLY.**

Rep. Younkin **MOVED DO PASS AS AMENDED.** The question was called. The motion **PASSED UNANIMOUSLY.**

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on February 3, 1999 at
3:10 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Story (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Bob Raney (D)

Members Absent: None.

Staff Present: Deb Thompson, Committee Secretary
Kathleen Williams, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 423, 2/6/1999
Executive Action: HB 298, HB 331, HB 300, HB 142

who has to haul water. Rep. Bitney replied that a buyer has rights and real estate practitioners must give full disclosure.
{Tape : 1; Side : A; Approx. Time Counter : 55.1}

Rep. Hurdle said the bill was based on an incident that happened to the sponsor's father because of a required cistern. Director Siminich noted the department does not require cisterns. They look at the tract to determine if the quantity and quality of the water supply is adequate, if not it is disapproved. The proposal could then be modified and could include the use of a cistern. He pointed out the problem for individuals who found out at a later time that their water supply was not adequate and would require a substantial cost to locate an alternate water supply.

Rep. Hurdle **MOVED TO TABLE HB 298**. The motion **PASSED** 13-7.
{Tape : 1; Side : B}

EXECUTIVE ACTION ON HOUSE BILL 331

Rep. Curtiss **MOVED DO PASS**. Rep. McGee discussed the terms "institutional control" or "remedy". Rep. Curtiss pointed out the hearing had no opponents. The bill was practical and a cost effective way to protect the environment.

The question was called. The motion **PASSED** 19-1 with Rep. Wagner voting no.

EXECUTIVE ACTION ON HOUSE BILL 300

Rep. Ohs **MOVED DO PASS HB 300**. Rep. Younkin said 60 working days was too long when considering weekends and holidays. Rep. Ohs replied this was a reasonable time. Small counties have small staff with lots of subdivision work.

The question was called. The motion **PASSED** with 4 no votes by Reps. Younkin, McGee, Orr and Wagner.

EXECUTIVE ACTION ON HOUSE BILL 142

Rep. Curtis **MOVED DO PASS HB 142**. {Tape : 1; Side : B; Approx. Time Counter : 17.7} EXHIBIT(7), EXHIBIT(8)

Rep. Ewer explained if the public thinks an EIS is not a good job it could be litigated. The bill would say the scoping ends with the department, you can't expand the scope of the environmental assessment in district court.

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Natural Resources -

05:02 PM

-
- HB 298** SPONSOR: Fuchs, Daniel SHORT TITLE: Prohibiting requirement of cisterns under certain conditions
REFERRED ON: 03/01/1999 HEARD ON: 03/12/1999
TABLED ON: 03/23/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 331** SPONSOR: Ahner, Chris SHORT TITLE: Authorize local health boards to adopt institutional controls at specified sites
REFERRED ON: 02/09/1999 HEARD ON: 03/08/1999
EXECUTIVE ACTION: 03/11/1999 Bill Concurred -- VOTE: 8 - 1
FINAL DISPOSITION 03/24/1999 Chapter Number Assigned
-
- HB 340** SPONSOR: Anderson, Shiell SHORT TITLE: Require preservation of monuments for land survey purposes
REFERRED ON: 02/22/1999 HEARD ON: 03/12/1999
TABLED ON: 03/27/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 346** SPONSOR: Raney, Bob SHORT TITLE: Require annual monitoring reports on compliance with EIS mitigation measures
REFERRED ON: 02/08/1999 HEARD ON: 03/08/1999
TABLED ON: 03/18/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 392** SPONSOR: Tash, Bill SHORT TITLE: Expand DEQ consultation with statewide TMDL advisory group
REFERRED ON: 02/06/1999 HEARD ON: 03/05/1999
EXECUTIVE ACTION: 03/08/1999 Bill Concurred -- VOTE: 11 - 0
FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
-
- HB 429** SPONSOR: Shockley, Jim SHORT TITLE: Bitterroot River basin temporary closure
REFERRED ON: 02/23/1999 HEARD ON: 03/15/1999
EXECUTIVE ACTION: 03/18/1999 Bill Concurred -- VOTE: 10 - 0
FINAL DISPOSITION 03/30/1999 Chapter Number Assigned
-
- HB 458** SPONSOR: Ohs, Karl SHORT TITLE: Streamside corridor and riparian management
REFERRED ON: 02/22/1999 HEARD ON: 03/15/1999
EXECUTIVE ACTION: 03/27/1999 Bill Concurred -- VOTE: 11 - 0
FINAL DISPOSITION 04/10/1999 Chapter Number Assigned
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 8, 1999 at 3:05 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Mike Taylor (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Larry Mitchell, Legislative Branch
Jyl Scheel, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJ 23, 3/08/1999; HB 331,
3/08/1999; HB 346, 3/08/1999;
HB 58, 3/08/1999
Executive Action: HJ 23

HEARING ON HJ 23

Sponsor: REPRESENTATIVE MONICA LINDEEN, HD 7, HUNTLEY

Proponents: None.

Opponents: None.

Opening Statement by Sponsor:

REPRESENTATIVE MONICA LINDEEN, HD 7, HUNTLEY, stated Pompeys Pillar, the most well known historical monument associated with the Lewis & Clark Expedition, was located in her District. A woman from New York City petitioned the U.S. Board on Geographic Names to change the name to Pompey Tower. A petition was circulated and turned into the Montana Department of Natural Resources and Conservation to retain the present name. HJ 23 was drafted to retain the name of Pompeys Pillar and ask DNRC to convey these arguments to the U.S. Board on Geographic Names in order that the current name be retained.

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SENATOR KEATING asked if Captain Clark's name had been preserved? REP. LINDEEN stated a clear glass covered Captain Clark's name to preserve it.

Closing by Sponsor:

REPRESENTATIVE MONICA LINDEEN, HD 7, HUNTLEY, thanked the committee for their support of this resolution.

EXECUTIVE ACTION ON HJ 23

Motion/Vote: SEN. MAHLUM moved that HJ 23 BE CONCURRED IN. Motion carried 8-0 by voice vote. SENATOR COLE will carry bill to Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 4.2; Comments : None.}

HEARING ON HB 331

Sponsor: REPRESENTATIVE CHRIS AHNER, HD 51, HELENA

Proponents:

Jay Spickelmier, Manager, Hydrometrics, Inc.
Joan Miles, Director, Lewis & Clark City/County Health Department
Teri Casey, East Helena City Council
Frank Crowley, ASARCO
Don Allen, Western Environmental Trade Association
Denise Mills, Remediation Division Administrator, Department of
Environmental Quality
Steve Wade, Burlington Northern and Santa Fe Railway Co.
Steve Pilcher, Atlantic Richfield Company

Opponents: None.

Opening Statement by Sponsor:

REPRESENTATIVE CHRIS AHNER, HD 51, HELENA, presented HB 331 as per EXHIBIT(1).

Proponents' Testimony:

Jay Spickelmier, Manager, Hydrometrics, Inc. and Superfund site Manager for ASARCO at the East Helena site, stated in order to reduce potential exposure of humans with a land use change or to protect the remedy on a residential site already completed, institutional controls become an asset. Currently there is no clear statutory authority to adopt institutional controls. If this bill is passed EPA will be able to finalize preferred alternatives of institutional controls which are the best practical way to address residual cleanup issues. Passage of this bill will assist protection of the remedy already completed and will assist with the land use changes.

Joan Miles, Director, Lewis & Clark City/County Health Department, stated this has been a good cooperative effort between several industry, agency and environmental groups. This bill deals with the ability of a local board to put institutional controls in place. Frequently an institutional control is referred to as a remedy protection measure or community protection measure. The bill does not change hazardous waste laws, it neither discourages nor encourages the use of institutional controls, the local board of health cannot define what kind of control would be in place, and does not provide for a new type of regulation not already allowed by state and federal regulations. The bill does recognize if an institutional control is appropriate and it puts a formal mechanism in place to carry it out on a local level. The Health Department does not have any regulatory authority over the facility itself.

She also spoke on behalf of **Teri Casey of the East Helena City Council** who was unable to attend the hearing but wanted to go on record in support of the bill.

Frank Crowley, ASARCO, spoke in support of the bill. He feels the reason we are seeing institutional control bills come forward this session is because of the aging of some of the larger cleanups going on in the state. After getting the major cleanup done, they arrive at some of the collateral and residual issues. That is why institutional controls are coming to the core as the best way to take care of these. Secondly, they originally thought this authority already existed. This bill will allow the **DEQ** to do what the legislature asked it to do two sessions ago. He passed out copies of the East Helena Soil Cleanup Plan produced by **EPA** showing the preferred alternative is the one this bill allows to happen. **EXHIBIT(2)**.

Don Allen, Western Environmental Trade Association, spoke in support of **HB 331** because it will confirm the availability of another option for pressing cleanup of environmentally impaired properties. Institutional controls can increase the flexibility for both the agencies and the parties cleaning up sites in reaching solutions that are both cost effective and productive.

Denise Mills, Remediation Division Administrator, Department of Environmental Quality, spoke in support of **HB 331** which offers another mechanism to provide for reliable and enforceable institutional controls. By allowing the local public health authorities to adopt regulations for institutional controls that are selected as part of the remedy either by **DEQ** or **EPA**.

Steve Wade, Burlington Northern and Santa Fe Railway Co., spoke in support of **HB 331**. They support any mechanism that provides options when the closing stages of a cleanup are being reached. This bill provides one of those options for both the regulatory community and the entities responsible for the cleanup.

Steve Pilcher, Atlantic Richfield Company, spoke in support of **HB 331**. The authority to provide institutional controls in this bill provides another tool in the cleanup tool box. The authority in this bill coincides very well with **SB 462**, which allows for environmental protection easements as an institutional control, and could be used to enforce such easements.

{Tape : 1; Side : A; Approx. Time Counter : 4.2 - 25.3; Comments : None.}

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SENATOR McCARTHY questioned when do the signs come down? **Ms. Mills** stated signs will come down when the remedy is considered to be completely implemented. In some sites that could be 15-30 years and other sites might be in perpetuity. **SEN. McCARTHY** stated it should be covered in the Plan so people know it might be in perpetuity.

SENATOR KEATING questioned can a third party become involved in the procedure and in some way delay or prevent the accomplishment at task for whatever reason? **Mr. Crowley** stated as part of the local process of the Board of Health adopting a specific institutional control, a third party could come in and attempt to dissuade the body from implementing that control. He did not believe the third party could have any effect on modifying it because the legislature is only granting the local board the authority to adopt an institutional control that is selected or approved. **SEN. KEATING** questioned if it was for the purposes of delay, could it add to the cost of the project? **Mr. Crowley** stated technically anything that delays the process will increase the cost. **SEN. KEATING** stated he only brought it up because there is some sensitivity about people using rules, regulations and laws as a means of impeding projects that need to be done as efficiently, quickly and cheaply as possible.

SENATOR MAHLUM questioned if any local Boards of Health have the expertise to enforce environmental controls and Super Fund sites? **Ms. Miles** stated it would depend on what kind of regulatory mechanism you are talking about. This bill just gives local boards the ability to have ordinance power to enforce an institutional control that has already been identified by the regulatory agency. If **EPA** identified something they wanted them to do and their Board felt it was beyond what the Department could handle, they would opt not to adopt such an ordinance. **SEN. MAHLUM** stated his concern was some local health boards may presume they know more than they actually know and may step further than they should step. **Ms. Miles** said they could only do what **EPA** or **DEQ** identified as a potential mechanism they could put in place.

SENATOR COCCHIARELLA asked for a couple of examples of institutional controls that the health board may be involved in? **Ms. Miles** referred to the example in the East Helena area which was having a local program for people to notify them if they were going to excavate. Another one could be if certain areas were fenced off there might be an ordinance in place to require repair or replacement of fencing if it became damaged and the public could access the area.

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SENATOR TAYLOR questioned what mechanism was used to set fees? **Ms. Miles** stated that section was already in law. They adopt fees like any other local regulation and would hold a public hearing.

Closing by Sponsor:

REPRESENTATIVE CHRIS AHNER, HD 51, HELENA, stated she has been a part of the advisory council at East Helena and over the past four years it has been a pleasure to watch **ASARCO, DEQ, EPA**, the County Health Department and the citizens of East Helena all sitting at the same table and watch the involvement and cooperation to come to this place. She requested a DO PASS.

{Tape : 1; Side : A; Approx. Time Counter : 25.3 - 42; Comments : None.}

HEARING ON HB 346

Sponsor: **REPRESENTATIVE BOB RANEY, HD 26, LIVINGSTON**

Proponents: None.

Opponents:

Cary Hegreberg, Montana Wood Products Association
Jim Mockler, Executive Director, Montana Coal Council
Bill Snoddy, McDonald Gold Project
Mary Allen, Western Environmental Trade Association

Opening Statement by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, LIVINGSTON, stated under present law when an Environmental Impact Statement (EIS) is issued, certain things must be done, i.e. mitigation, monitoring or stipulations of compliance. An EIS is created for public review but it is difficult for the public to access compliance reports. This bill states that by July 1 each year, the agency will summarize the compliance reports and make them available to the public. Part two takes it a step further by placing the reports on the state electronic bulletin board or that agency's web page. It would be a cost savings to the state to have the information available electronically. It promotes efficiency and faith in government.

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 10, 1999
at 3:20 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Mike Taylor (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Larry Mitchell, Legislative Branch
Jyl Scheel, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 96, 3/10/1999; HB 74,
3/10/1999; HJ 8, 3/10/1999; HJ
11, 3/10/1999; HJ 17,
3/10/1999
Executive Action: HB 331; HB 58; HB 142

HEARING ON HB 96

Sponsor: REPRESENTATIVE LARRY GRINDE, HD 94, LEWISTOWN

EXECUTIVE ACTION ON HB 331

Motion/Vote: SEN. KEATING moved that HB 331 BE CONCURRED IN.
Motion carried 8-1 with Mahlum voting no. SENATOR ROUSH will
carry bill to Senate floor.

EXECUTIVE ACTION ON HB 346

After discussion by the committee, it was decided to wait to do
executive action on this bill until next week.

{Tape : 1; Side : B; Approx. Time Counter : 21.9 - 28.7; Comments
: None.}

EXECUTIVE ACTION ON HB 58

Motion: SEN. COLE moved that HB 58 BE CONCURRED IN.

Motion: SEN. GROSFIELD moved that HB 58 AMENDMENTS HB005801.ALM
BE ADOPTED. EXHIBIT(8).

Discussion:

SENATOR COCCHIARELLA stated she holds the same concern as she did
in the hearing that a private property owner shares some
responsibility of the cleanup of an underground storage tank. If
this amendment is added does that mean Burlington Northern is
completely off the hook for any share of the responsibility of
that cleanup? Mr. Mitchell stated not totally as they would
still be subject to the cost reimbursement, the half of the first
\$35,000 of remediation like any private tank owner would be.

Vote: Motion that AMENDMENTS HB005801.ALM BE ADOPTED carried
10-0.

{Tape : 1; Side : B; Approx. Time Counter : 28.7 - 40; Comments :
None.}

Motion: SEN. GROSFIELD moved that HB 58 AMENDMENTS HB005802.ALM
BE ADOPTED. EXHIBIT(9).

Vote: Motion that AMENDMENTS HB005802.ALM BE ADOPTED carried
11-0.